

# Exhibit 10

Early next week I should be able to complete the list of all items needing attention. In the meantime it will be useful to learn which parts "may not be able to be accommodated". More importantly, last year we provided detailed responses to each allegation in Tom Sinclair's letter of May 4, 2011, and to date have received no response. Brad, given the sense of urgency it would be very helpful to receive feedback on these letters.

Best regards,

mark

On Thu, Oct 18, 2012 at 4:04 PM, Brad McCrea

<[bradm@bcdc.ca.gov](mailto:bradm@bcdc.ca.gov)> wrote:

Mark,

We have looked over your "list of problems" and agree with you that many of the changes make sense and can be accommodated. A few, on the other hand, may not be able to be accommodated. We can discuss this further.

Before we proceed, however, we need to know whether you have any other revisions or corrections to Amendment No. 5. If you do not, we will prepare a revised permit for your consideration, at which point it would be best for you to come to our office so that we can discuss the changes.

We agree with you that we must reach resolution of this amended permit. There is urgency to complete the public access. Therefore, please confirm that the list that you emailed last Friday is the final list of issues and that if we resolve the items on that list, you will execute the permit.

We look forward to hearing from you.

Brad

Brad McCrea  
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On Oct 16, 2012, at 11:58 AM, "Mark Sanders"

<[mark@westpointharbor.com](mailto:mark@westpointharbor.com)> wrote:

Hello Brad,

and thank you for taking the time to talk last Friday. Hopefully you had a chance to look at the list of problems in the Amendment 5 draft I sent, and agree the amendment cannot be executed in its present form. Beyond letting you know, another reason for the call was to see if you preferred to address the issues informally.

Based on our talk, I will send you a formal letter as to why it cannot be signed, unless you tell me otherwise.

You expressed concern that our inability to sign the amendment may be a delaying tactic, and I want to assure you the opposite is true. After receiving Tom Sinclair's May 4, 2011, letter of alleged permit violations, we (Kevin Stevens, Truman Mak, Silvia Robertson, with Ellen Miramontes and Adrienne Klein) have worked more or less continuously to show we comply with the permit conditions. This has been very costly (over \$50,000 spent and a year of construction lost)--certainly not good for the harbor.

In September 2011 we were asked to stop work, and little has been accomplished except grading since. Ongoing work at the time included landscaping, irrigation and utilities in the west, and bioswales, paths and utilities to the east.

Our last communication was Ellen to Kevin (9/11/12) with additional comments on the landscaping construction drawings, and she indicated there were a few more to come. Once these drawings are approved we can restart construction, including fences so the City will allow public access around areas secured for safety reasons.

Brad, in the past Andrea Gaut often authorized changes by letter, and "caught up" later (in Amendment 3). Perhaps this will work again so some work can go forward? Kevin and Ellen agreed to temporary safety fencing to allow more public access; agreed on the type of fence; and agreed existing trees and paths will remain and new paths facing Westpoint Slough will be 12 feet. A letter authorization for these items would surely speed things up.

Best regards,

mark